

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

(Horn)
*why are there
so many NOV's?*

In the matter of:

PUERTO RICO ELECTRIC POWER
AUTHORITY,
Palo Seco Steam Plant
Toa Baja, Puerto Rico

NOTICE OF VIOLATION:

Index No. CAA-02-2002-1304

Ken
12/22/03

I. STATUTORY AUTHORITY

THIS NOTICE OF VIOLATION ("NOV") is issued to the Puerto Rico Electric Power Authority, ("Respondent") for violations at its Palo Seco Steam Plant located at PR Road 165, km14.0, Toa Baja, Puerto Rico (the "facility"), pursuant to Section 113 of the Clean Air Act (the "Act"), 42 U.S.C. §7413, as amended. Section 113 of the Act requires the Administrator of the U.S. Environmental Protection Agency ("EPA") to notify both the person and the State in which the violation occurred of the finding whenever EPA finds that a person violated a requirement of a State Implementation Plan ("SIP"). The authority to issue this NOV has been duly delegated to the Division Director of the Caribbean Environmental Protection Division, from the Administrator through the Regional Administrator of EPA Region 2.

II. EPA FINDINGS: PUERTO RICO SIP:

A. Visible Emissions:

Rule 403 of the Puerto Rico Regulation for the Control of Atmospheric Pollution, (PRRCAP) Visible Emissions, provides in pertinent part that:

No person shall cause or permit the emission of visible air pollutants of an opacity greater than 20 percent (6-minute average). Compliance with the visible emissions limitation shall be determined by using the test methods in Rule 106.

Respondent owns and operates the Palo Seco Steam Plant which is a source of air emissions. On or about October 31, 2001, a duly-designated EPA inspector conducted an inspection at

Respondent's Palo Seco Steam Plant.

During the inspection, the EPA inspector observed that Respondent was operating the facility with a visual emission greater than 20% opacity. Specifically, the visual emission readings taken by the EPA inspector on October 31, 2001, show the following violation(s):

UNIT	VISIBLE EMISSIONS READING
Stack 3-1	23.96 %, 26.25%
Stack 4-1	37.91%, 30.625%, 39.79%, 29.58%

Respondent's operation of the facility, as described above, is in violation of the applicable statutes and regulations of both Commonwealth and federal law until it establishes continued compliance. Furthermore, EPA and Respondent entered into a Consent Decree, Civil Action No. 93-2527 CCC, under which Respondent is obliged to operate each generating facility in compliance with Rule 403 of the PRRCAP and the applicable federal law.

III. ENFORCEMENT

Section 113 of the Act, 42 U.S.C. § 7413, provides that after 30 days from the issuance of this NOV, the EPA may:

- issue an order requiring compliance with the requirements or prohibitions of the SIP;
- issue an administrative penalty order pursuant to Section 113(d) of the Act, for civil administrative penalties of up to \$25,000¹ per day of violation;
- bring a civil action pursuant to Section 113 (b) of the Act, for injunction relief and/or civil penalties of not more than \$25,000² per day for each violation.

¹See the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Pub. L. 101-410, enacted October 5, 1990; 104 Stat.890), as amended by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701 note; Public Law 104-134, enacted April 26, 1996; 110 Stat. 1321). The Debt Collection Improvement Act or "DCIA" requires each Federal agency to issue regulations adjusting for inflation the maximum civil monetary penalties that can be imposed pursuant to such agency's statutes. With the adoption of this rule implementing these statutes, all violations which take place after January 30, 1997 are subject to the new statutory maximum civil penalty amounts. With limited exceptions not relevant to this referral, all of the statutory penalty provisions applicable to this action have been increased by the maximum allowed: ten percent. All affected penalty provisions and their statutory maximum amounts are set out in Table 1 of 40 C.F.R. § 19.4. In this case, the statutory maximum penalties under the CAA are increased to \$27,500 under the DCIA as well as under the CAA penalty policy amounts.

²*Id* at n.1.

bring a criminal prosecution seeking fines and/or imprisonment pursuant to Section 113(c) if Respondent knowingly violates any requirement or prohibition of an applicable implementation plan during any period of federally assumed enforcement.

IV. PENALTY ASSESSMENT CRITERIA

If a penalty is assessed in a civil or administrative action, Section 113 (e)(1) of the Act, 42 U.S.C. § 7413 (e) (1), states that the Administrator or the court, as appropriate, shall, in determining the amount of penalty to be assessed, consider (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), the payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

Section 113 (e)(2) of the Act, 42 U.S.C. § 7413 (e) (2), allows the Administrator, or the court as appropriate, to assess a penalty for each day of violation. The number of days of violation shall include the date of the notice and each and every day thereafter until Respondent achieves continuous compliance. If Respondent proves that there was an intermittent day of compliance or that the violation was not continuous in nature, then the EPA may reduce the penalty accordingly.

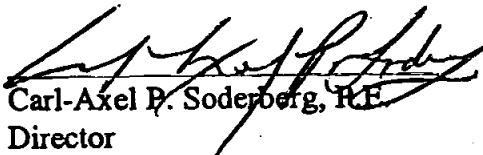
Upon conviction under Section 113(c), Respondent may be fined pursuant to Title 18 of the United States Code, or imprisoned for a term not to exceed five years or both. If the person is a second time offender, the maximum punishment shall be doubled with respect to both the fine and the term of imprisonment. Also, the facility will be declared ineligible for Federal contracts, grants, and loans. The Administrator may extend this ineligibility to other facilities owned by the Respondent (Section 306 of the Act, the regulations promulgated thereunder at 40 CFR Part 15, and Executive Order 11738).

V. OPPORTUNITY TO CONFER

Regarding the violations included in this NOV, EPA may give an opportunity to Respondent to confer provided it requests such a conference within five (5) days of receipt of this NOV. A request for a conference should be directed to:

Hector Vélez Cruz, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency - Region 2
1492 Ponce de Leon Ave.
Centro Europa Building Suite 207
San Juan, Puerto Rico 00910
(787) - 977-5850

Issued: November 23, 2001
San Juan, Puerto Rico


Carl-Axel P. Soderberg, P.E.
Director
Caribbean Environmental Protection Division
1492 Ponce de Leon Ave.
Centro Europa Building Suite 417
San Juan, Puerto Rico 00910
(787) - 977-5801

To: Mr. Hector Rosario
Executive Director
Puerto Rico Electric Power Authority
G.P.O. Box 364267
San Juan, Puerto Rico 00907-0386

cc: Mr. Angel O. Berrios, Director
Air Quality Area
Puerto Rico Environmental Quality Board
P.O. Box 11488
San Juan, Puerto Rico 00910

VISIBLE EMISSION OBSERVATION FORM 1

Method Used (Circle One)
Method 9 203A 203B Other: _____

Company Name Puerto Rico Electric Power Authority		
Facility Name Palo Seco Steam Plant		
Street Address PR 165 Km 31.8		
City Caguas	State PR	Zip 2p

Process <i>Steam boiler</i>	Unit # <i>3-1</i>	Operating Mode
Control Equipment		Operating Mode

Description: Emission Point		Red and white pluck 3-1	
Height of Emiss. Pt. Start 254 ft End 154 ft		Height of Emiss. Pt. Ref. to Observer Start 254 ft End 254 ft	
Distance to Emiss. Pt. Start 358 yd End 358 yd		Direction to Emiss. Pt. (Degrees) Start 344 NW End 344 NW	

Vertical Angle to Obs. Pt. Start 11° End 11°	Direction to Obs. Pt. (Degrees) Start $326^\circ NW$ End $344^\circ NW$
Distance and Direction to Observation Point from Eriq on Point Start ± 3 diameter straight up End ± 3 diameter straight up	

Desc: #16 Emission	
Start 10thing	End 10thing
Emission Color	
Start white/black	End white/black
Attached <input type="checkbox"/> Detached <input type="checkbox"/> None <input checked="" type="checkbox"/>	

Describe Plume Background		End sky	
Start sky		End sky	
Background Color		Sky Conditions	
Start blue	End blue	Start scattered	End scattered
Wind Speed		Wind Direction	
Start 4 mph	End 4 mph	Start East	End East
Ambient Temp.		Wet Bulb Temp.	
Start 75.3°F	End 76°F	RH Percent	
		80%	

Source Layout Sketch

Draw North Arrow

☐ TN ☐ MN

Observation Point

3-2 3-1 2 1

Observer's Position

To Log Village

140°

Sun Location Line

254 FEET

351 yds

Side View

Stock With Plume

Sun

Wind

Longitude

Latitude

Declination

Additional Information
VE readings were taken at ± 30 mm/sec. straight up
before the phase bend and at the point of maximum
VEOF1.1 *apartly*

Form Number						Page	Of
Continued on VEO Form Number							

Observation Date		Time Zone				Start Time	End Time
19/31/01		EST-PR				10:33 am	10:44 am
Sec	0	15	30	45	Comments		
1	15	25	15	15	"Sun on black with a cloud 8/ 23.96% (clouds have been smelly heavy plus cloud contact for 26.25% Deaded to switch with and 4 with a heavy grade		
2	10	15	10	10			
3	20	10	20	25			
4	25	30	30	30			
5	35	25	40	40			
6	40	35	25	30			
7	35	30	30	25			
8	20	15	30	30			
9	30	15	10	30			
10	30	25	15	25			
11	20	20	25	30			
12	40	40	30	30			
13							
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25							
26							
27							
28							
29							
30							

Observer's Name (Print) Francisco Claudio Ries	
Observer's Signature Francisco Claudio Ries	Date 10/31/01
Organization USEPA CEPI	
Certified By ETA	Date Jan 6, 2001

VISIBLE EMISSION OBSERVATION FORM 1

Method Used (Circle One)
 Method 9 203A 203B Other: _____

Company Name **PR EPA**
 Facility Name **Palo Verde Steam Plant**
 Street Address **PR 165 KM**
 City _____ State _____ Zip _____

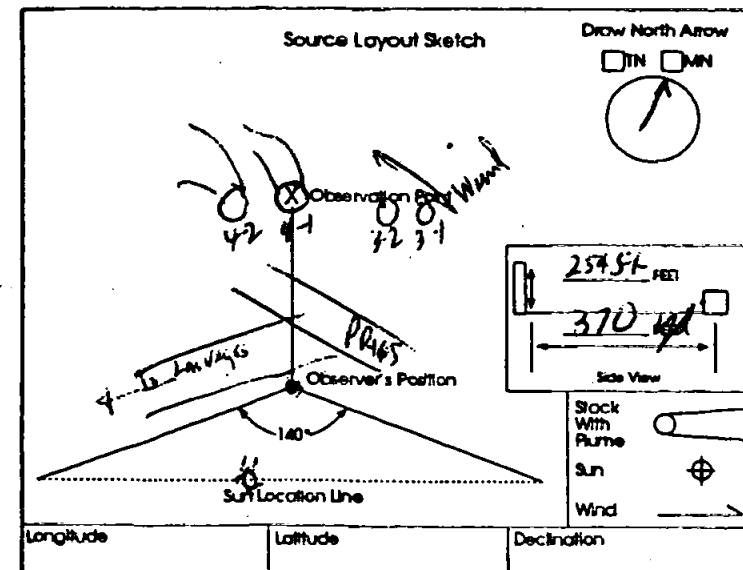
Process **Steam boiler** Unit # **4-1** Operating Mode _____
 Control Equipment **Combustion** Operating Mode _____

Describe Emission Point
Red & white stack 4-1
 Height of Emiss. Pt. Start **254 ft** End **254 ft** Height of Emiss. Pt. Rel. to Observer Start **254 ft** End **254 ft**
 Distance to Emiss. Pt. Start **370 yd** End **370 yd** Direction to Emiss. Pt. (Degrees) Start **340 NW** End **340 NW**

Vertical Angle to Obs. Pt. Start **10°** End **10°** Direction to Obs. Pt. (Degrees) Start **340 NW** End **340 NW**
 Distance and Direction to Observation Point from Emission Point Start **± 20 straight up** End **± 20 straight up**

Describe Emissions
 Start **lofting** End **lofting**
 Emission Color Start **blue** End **blue** Attached ☐ Detached ☐ None ☒

Describe Plume Background
 Start **sky** End **sky**
 Background Color Start **blue** End **blue** Sky Conditions Start **scattered** End **scattered**
 Wind Speed Start **4-6 mph** End **4-6 mph** Wind Direction Start **East** End **East**
 Ambient Temp. Start **79.2°F** End **79.2°F** Wet Bulb Temp. _____ RH Percentage **72%**



Additional Information
VE readings are taken at 20 straight up after spit the stack and before plume back

VEOF1.1 at the point of maximum opacity

Form Number _____ Page _____ of _____
 Continued on VEO Form Number _____

Observation Date		Time Zone				Start Time	End Time
10/31/01		EST-AR				10:45am	11:17am
Sec	Min	0	15	30	45	Comments	
1	30	15	30	30		37.91%	
2	50	50	35	50			
3	45	40	50	50			
4	60	80	50	35			
5	45	60	10°	10°		* Sun is blocked by a cloud	
6	20°	25°	20°	20°			
7	15°	20°	20°	20°		13.75%	
8	20°	25	15	15			
9	15°	20°	20°	25°			
10	15°	20°	10°	10			
11	10°	15°	10°	10°		- block by cloud at background	
12	5°	5	-	-			
13	-	-	-	-		30.625%	
14	20	25	35	35			
15	20	30	35	35			
16	40	30	40	40			
17	45	30	45	35		* Sun is block	
18	25	35	40	30			
19	45	5°	5°	10°		39.79%	
20	15°	40	50	50			
21	45	50	50	45			
22	40	30	30	35			
23	40	30	40	50		9.58%	
24	45	40	50	40			
25	35	30	35	40			
26	40	50	60	70			
27	50	25	20°	30		* Sun is blocked by a cloud. plume color change to brown Unit 3-2 is being started	
28	20	25	20	30			
29	15°	20°	20°	15°			
30	30	20	30	30			
31	30	20	20	20			

Observer's Name (Print) **FRANCISCA CLAUDIA RIOS**
 Observer's Signature **Francisca Claudia Rios** Date **10/31/01**
 Organization **LAS EPA CE PD**
 Certified By **ETA** Date **June 6, 2001**